



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2022-0977]

RIN 1625-AA00

Safety Zone; Savannah River, M/V BIGLIFT BAFFIN, Savannah, GA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters of the Savannah River, within a 500-yard radius around M/V BIGLIFT BAFFIN. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by the transit through the Savannah River to Georgia Port Authority Garden City Terminal Berth No. 1 while carrying large cranes, and for the offload of those cranes to the facility. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Savannah or a designated representative.

DATES: This rule is effective from 7:00 a.m. on February 9, 2023 through 11:59 p.m. on February 26, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2022-0977 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST3 Jesse Dillon, Shoreside Compliance, Marine Safety Unit Savannah, U.S. Coast Guard; telephone 912-652-4353, jesse.q.dillon@uscg.mil .

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The Coast Guard lacks sufficient time to provide for a comment period and then consider those comments before issuing the rule since this rule is needed by February 9, 2023. It would be contrary to the public interest since immediate action is necessary to protect the safety of the public, and vessels transiting the waters of the Savannah River, during the planned movement and obstruction created by oversized cranes.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because the vessel is scheduled to arrive at the Port of Savannah on February 9, 2023.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Savannah (COTP) has determined that potential hazards associated with the transit and offload of gantry cranes from M/V BIGLIFT BAFFIN scheduled for February 9, 2023 through February 26, 2023, will be a safety concern for anyone within a 500-yard radius of the vessel. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the vessel is transiting the Savannah River and offloading gantry cranes.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from February, 9, 2023 through February 26, 2023. A moving and fixed temporary safety zone will be established for the vessel M/V BIGLIFT BAFFIN while it is in the Savannah River and would cover all navigable waters within 500 yards of the vessel, up to Georgia Port Authority Garden City Terminal Berth No. 1, and during offload of the cranes. The moving temporary safety zone would only be enforced while the vessel is transiting, and the fixed temporary safety zone will be enforced while it is discharging the cranes. This safety zone may last until February 26, 2023 but it will not be enforced after the cranes have been removed from the vessel. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by the movement and obstruction hazard of two oversized cranes transiting the Savannah River, and when the vessel is moored to that facility. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these

statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location and scope of the safety zone. The zone is limited in size, location, and duration as it will cover all navigable waters of the Savannah River within 500 yards of the M/V/ BIGLIFT BAFFIN while it is underway with cranes onboard, and while it is moored to the terminal, and discharging its cargo. The zone is limited in scope as vessel traffic may be able to safely transit around this safety zone and vessels may seek permission from the COTP to enter the zone. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the safety zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule would not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the

Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves This rule involves a safety zone within 500 yards of M/V BIGLIFT BAFFIN during transit and offload of cranes. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received

without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

2. Add § 165.T07-0977 to read as follows:

§ 165.T07-0977 Safety Zone; Savannah River, M/V BIGLIFT BAFFIN, Savannah, GA

(a) *Location.* The following is a safety zone: The moving safety zone will include all navigable waters of the Savannah River, within a 500-yard radius of the vessel M/V BIGLIFT BAFFIN while transiting the Savannah River and laden with oversized cranes. The fixed zone will include all navigable waters of the Savannah River, within a 500-yard radius of vessel M/V BIGLIFT BAFFIN while moored at Georgia Port Authority Garden City Terminal Berth No. 1 and laden with oversized cranes.

(b) *Definition.* As used in this section, designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Savannah (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section

unless authorized by the COTP or the COTP's designated representative.

(2) Persons or vessels desiring to enter, transit through, anchor in, or remain within the safety zone may contact COTP Savannah by telephone at (912) 247-0073, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the COTP Savannah or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP or a designated representative.

(3) The Coast Guard will provide notice of the regulated areas by Broadcast Notice to Mariners, Marine Safety Information Bulletins, and on-scene designated representatives.

(d) *Effective and Enforcement period.* This section is effective from February 9, 2023 through February 26, 2023. The moving zone will be enforced while the vessel is transiting with the cranes embarked, and the fixed zone will be enforced while the vessel is moored at the facility, and the cranes are onboard.

Dated: January 31, 2023

K. A. Broyles,

Commander, U.S. Coast Guard,
Captain of the Port
Savannah, GA

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